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SUBJECT: GOB'S MORATORIUM ON ENFORCING JUDICIAL DECISIONS ENDS

REF: (A) 07 COTONOU 955 (B) 07 COTONOU 887

1.(U) Benin's Constitutional Court, in a ruling made public on December 31, 2007, found the GOB's decision to stop enforcing judicial decisions in land disputes (Ref B) unconstitutional. The GOB's Council of Ministers (equivalent of USG Cabinet) subsequently issued a statement on December 31 stating the GOB would conform to the Constitutional Court's decision. The National Association of Magistrates, which had previously gone on an extended strike (Ref A), ended the strike and returned to work after the Court's decision.

2.(U) The Constitutional Court ruled the GOB's moratorium on enforcing judicial decisions on land disputes was unconstitutional in a decision handed down on December 27 and then publicized on December 31, 2007. The court found that the GOB's decision violated Benin's constitutional assurances of personal property rights and the responsibility of the government to enforce decisions of the judiciary. It further found that the GOB violated the constitution by interfering with the independence of the judiciary.

3.(U) Meeting in an extraordinary session on December 31, 2007, the GOB's Council of Ministers decided it would abide by the decision of the Constitutional Court. According to a source present at a January 3, 2008 meeting between GOB Ministers, magistrates, and other institutional stakeholders, the GOB will begin enforcing land dispute decisions but will, on a case-by-case basis, attempt to resolve the dispute between the two parties without resorting to force to enforce the decision. The same source, a magistrate himself, stated that the National Association of Magistrates is pleased with the decision and magistrates are glad to be working again.

4.(U)Comment: The Constitutional Court's decision, and the GOB's decision to respect it, reflect well on Benin's democratic traditions and the Yayi government's desire to uphold them. The GOB did not hesitate in accepting the Court's decision against it. This does not mean the problems resulting from land disputes, including the forcible eviction of people who have spent decades in a home they thought was their own, are over. The GOB now needs to concentrate on improving the judiciary's capacity to resolve land disputes and the public's ability to register land ownership. On both of these issues the USG stands ready to assist through MCA-Benin's programs to increase Access to Justice and Access to Land. End Comment.

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